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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 Ronald L. Green,
10 Plaintiff,
11 v.
12 Herman F. Moeller et al,
13 Defendants.

Case No. 2:13-cv-739-JAD-PAL

Order Dismissing Action

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15 Pro se plaintiff Ronald L. Green, an employee of the Internal Revenue Service, alleges that
16 his Fourth Amendment rights were violated during an EEOC proceeding he initiated to obtain
17 employee medical benefits. He commenced this action on April 30, 2013, and amended his
18 complaint on July 5, 2013. The Clerk entered various defaults, but those defaults were later reversed
19 upon motion. *See* Docs. 19, 20, 25. The Defendants filed a motion to dismiss this action on
20 December 27, 2013, arguing, *inter alia*, that Plaintiff failed to allege facts to state a viable claim,
21 Defendant Moeller is entitled to qualified immunity, and Plaintiff's *Bivens* claims against Moeller
22 are time-barred. Doc. 26. In response, Plaintiff moves this Court for permission to withdraw his
23 claims. Doc. 29. Defendants have offered no response to this request.

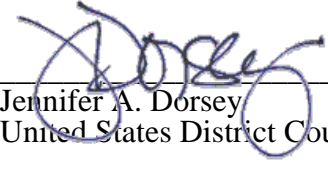
24 The Court treats Green's request as a motion for voluntary dismissal pursuant to Federal
25 Rule of Civil Procedure 41(a). *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d 920, 925 (9th Cir.
26 2003) (acknowledging that courts must construe pro se motions and pleadings liberally). Rule
27 41(a)(1) allows voluntary dismissal by the plaintiff without a court order if the plaintiff files a notice
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1 of dismissal “before the opposing party serves either an answer or a motion for summary judgment.”
2 Fed. R. Civ. Proc. 41(a)(1). Rule 41(a)(2) permits the court to dismiss an action at the plaintiff’s
3 request “only by court order, on terms that the court considers proper.” Fed. R. Civ. Proc. 41(a)(2).
4 No defendant has answered or moved for summary judgment, and thus, Plaintiff could have secured
5 dismissal merely by filing a Rule 41(a)(1) notice. Thus, the Court finds good cause to order
6 dismissal of this action under 41(a)(2).

7 Accordingly, for good cause appearing and with no reason for delay,

8 IT IS HEREBY ORDERED that **this action is DISMISSED** without prejudice. Defendants’
9 Motion to Dismiss **[Doc. 26]** is **DENIED** as moot.

10 DATED February 3, 2014.

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13 Jennifer A. Dorsey
14 United States District Court Judge
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